

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA,

4 v.

08 CR 8000

5 JOHN DOE,

6 Defendant.

7 -----x

8 New York, N.Y.
9 September 20, 2016
12:00 p.m.

10 Before:

11 HON. RICHARD M. BERMAN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA
16 United States Attorney for the
Southern District of New York
17 ROBERT L. BOONE
JANIS ECHENBERG
Assistant United States Attorney

18 MORVILLO LLP
19 Attorneys for Defendant
20 BY: ROBERT MORVILLO
STUART PIERSON

1 THE COURT: Nice to see you all.

2 So a couple of preliminary issues. We, as you all
3 know, are here today for a plea allocution. Let's first hear
4 from the government, if you will.

5 The government has made application that this be a
6 closed courtroom proceeding and that the documents in this case
7 be sealed, as they have been up until now.

8 So if you could for the record explain why this
9 unusual procedure.

10 MR. BOONE: Certainly, your Honor. As we laid forth
11 in papers we filed with your Honor, this case is a sensitive
12 case given the individuals involved. It involves high-level
13 government officials including at least one official who was a
14 high-level member of the current government in New York cabinet
15 so to speak. It also involves other state employees, some of
16 whom are still employed by the state.

17 It is a case that in some parts there have been
18 reports in the press about the case and about Defendant Howe in
19 particular. It's obviously our goal to keep things that are
20 involving grand jury proceedings as secret as possible.

21 Given that there is already interest in the case, we
22 feel it's necessary to have a closed room and closed documents
23 related to the case so that we can continue our investigation
24 and our investigation won't be hindered or disrupted by the
25 fact that people are aware of certain aspects of it.

1 THE COURT: As you mentioned, there have been some
2 news accounts already of the investigation. I think I saw
3 one -- I can't remember what periodical it was, but one that
4 counterposed Mr. Howe and Governor Cuomo for example. You may
5 have seen that yourself.

6 MR. BOONE: Yes, your Honor.

7 THE COURT: Yet you still feel there's a need for
8 secrecy, notwithstanding the matter has been discussed
9 publicly?

10 MR. BOONE: Yes, your Honor. As we laid out in the
11 papers --

12 THE COURT: You might want to refer to particular
13 papers that you're talking about by date.

14 MR. BOONE: Yes, your Honor. We filed an affidavit in
15 a proposed order requesting sealing of the courtroom. We sent
16 it to your Honor's chambers yesterday I believe.

17 As we set out there, even though there have been
18 accounts as we've noted earlier, in our view, that makes it
19 even more important to keep the matters sealed and as secretive
20 as possible so that we can continue to conduct our
21 investigation without further disruption that results in the
22 media and others finding out about activities.

23 Having someone in the case -- in this instance, this
24 will be the first person in the case who pleads guilty to
25 crimes related to our investigation -- that fact in and of

1 itself would be, we believe, something that we would be very
2 interested in, and it would signal to targets and others that
3 the case has reached a much more serious stage.

4 THE COURT: The article I was mentioning before is an
5 article by Fredric Dicker dated August 8, 2016, the caption of
6 which is that "Cuomo Crony Spills for Leniency Deal in
7 Corruption Probe." So at least Mr. Dicker has some
8 understanding about this case.

9 How far along would you say you are roughly? I don't
10 want the details of your investigation.

11 MR. BOONE: Very close, your Honor.

12 THE COURT: To concluding it?

13 MR. BOONE: Yes, your Honor.

14 THE COURT: Mr. Morvillo, do you feel the same? That
15 there is a need for closing the courtroom? It's an unusual
16 occurrence for us.

17 MR. MORVILLO: Yes, your Honor. If I might, on a
18 personal note, I've been asked to extend greetings from my
19 nephew and your clerk.

20 THE COURT: The record should reflect that his nephew
21 was my former clerk. I can't pick the year right now. It was
22 probably three or four years ago.

23 MR. MORVILLO: Two or three years ago.

24 Your Honor, I've been involved in a number of
25 high-visibility cases, but I can't recall one where we've been

1 hounded as much, both by the media and by other defense
2 lawyers.

3 The article that your Honor alludes to was inaccurate
4 at the time because the cooperation agreement was only signed
5 today. I'm besieged by phone calls, people trying to
6 understand the nature and the status of the investigation.

7 I dare say I think that there has been an attempt by
8 some to smear Mr. Howe's reputation as a precursor to what
9 might be their defense strategy down the road.

10 So, for the protection of my client and his family, we
11 would appreciate it. We also think that he has very sensitive
12 information held very closely by a number of very powerful
13 people in the state. Therefore, I think the integrity of the
14 investigation is preserved if we can operate under the seal.
15 Thank you.

16 THE COURT: So I've agreed to do it up until today,
17 and I've agreed to do it at this time as well. It's always,
18 especially since there is already information out there -- I
19 certainly don't want to do it for a long period of time. So I
20 would urge everybody to move things along.

21 It sounds like that is what the government is doing
22 with the defense. But sooner is better than later where you
23 have a proceeding that is closed such as this one.

24 Number two, I will be doing it anyway, but I think it
25 would be a good time to swear in Mr. Howe in case there are

1 questions other than the formal questions.

2 If you could please stand and raise your right hand.

3 (Defendant sworn)

4 THE COURT: Mr. Howe, you're under oath. You are no
5 doubt aware that your answers to my questions must be truthful.
6 If you should fail to answer truthfully, you could be subject
7 to criminal penalties of perjury or making a false statement.

8 You understand that I'm sure; right?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: If you could clear up a little bit for me,
11 unless I misread it. You lived in New York state up until what
12 point of time?

13 THE DEFENDANT: In New York state until roughly 1995,
14 your Honor.

15 THE COURT: You were a resident of New York until
16 then?

17 THE DEFENDANT: Yes, I was.

18 THE COURT: And then you moved to DC?

19 THE DEFENDANT: Yes, I did, your Honor.

20 THE COURT: Is that where you reside now?

21 THE DEFENDANT: Yes.

22 THE COURT: Was there an interim period that you
23 resided in Maryland?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: So, between moving to DC, Maryland, and

1 now, that spans how many years? Roughly.

2 THE DEFENDANT: Roughly about 20 years or so.

3 THE COURT: Thank you. I'm going to have a lot more
4 questions for you, as you can imagine, in a minute. You can be
5 seated for the moment.

6 This is a question that comes later in the allocution,
7 but I think I am going to start with the government, at least
8 on a summary basis -- there are many counts here. There are
9 eight counts altogether.

10 Could you just run us through quickly, not in as much
11 detail as you will later on in the course of the allocution,
12 what those counts in lay language charge.

13 MR. BOONE: Would you like me to go through the
14 elements?

15 THE COURT: You don't need to go through all the
16 elements -- I'll ask you to do that later on -- just so that
17 there's an understanding of what they are. You could, perhaps,
18 look at the plea agreement. This is a cooperation agreement;
19 is that correct?

20 MR. BOONE: That's correct.

21 THE COURT: So that has the counts in pretty summary
22 form. You might just expand a little bit on those. Tell us
23 what Count One means, what Count Two means, etc.

24 MR. BOONE: Certainly, your Honor. Count One charges
25 the defendant with conspiring to commit honest services fraud.

1 If I can, your Honor, it might be easier for me to explain
2 which conspiracy.

3 THE COURT: Okay.

4 MR. BOONE: It's probably easiest to think of this as
5 two different conspiracies. The first conspiracy relates to
6 the first three counts. So that's conspiring to commit honest
7 services fraud, conspiracy to commit extortion under color of
8 official right, and the substantive count of extortion under
9 color of official right.

10 THE COURT: That's Counts One, Two, and Three?

11 MR. BOONE: Yes, your Honor. That's Counts One, Two,
12 and Three. Those counts relate to a scheme that defendant
13 participated in in which who was referred to in the indictment
14 as CC1, a former official in the state government, received
15 payments from companies and Todd Howe facilitated those
16 payments. The purpose of those payments was to get official
17 action from CC1.

18 THE COURT: On behalf of clients of Mr. Howe?

19 MR. BOONE: Correct, your Honor. On behalf of clients
20 of Mr. Howe. Mr. Howe more or less acted as a conduit of those
21 payments. To be clear, these schemes are overlapping in some
22 degree.

23 Moving to the second conspiracy, those are covered in
24 Count Four, which is a conspiracy to commit wire fraud;
25 Count Five, which is a substantive act of wire fraud, charge of

1 wire fraud, rather; and Count Six, which is a conspiracy to
2 commit bribery.

3 In that conspiracy, Mr. Howe in a sense wore two hats.
4 He acted as a consultant for a state organization, as is laid
5 out in the information, while at the same time acting as a
6 consultant for individual private companies.

7 In that conspiracy, Mr. Howe was helping those
8 companies who were his clients obtain contracts from the state.
9 As a consultant with a state entity, he had an opportunity to
10 influence the request for proposals and did so, as we allege in
11 the information, and did so in exchange for money from those
12 clients of his.

13 THE COURT: And the state organization is an arm of
14 SUNY? Is that right?

15 MR. BOONE: That's right, your Honor. State
16 University of New York.

17 THE COURT: SUNY was in a position to award contracts
18 to clients of Mr. Howe, and Mr. Howe helped, unbeknownst to
19 SUNY, if I understand it correctly, frame the requests for
20 proposals so that Mr. Howe's clients would actually win those
21 awards.

22 MR. BOONE: I just want to correct a little bit.

23 THE COURT: Okay.

24 MR. BOONE: Mr. Howe was working as a consultant for
25 an affiliate of SUNY that was charged with doling out these

1 contracts that were funded by taxpayers' money.

2 His salary came from the State University of New York
3 and their foundation, which sort of helped pay for this
4 affiliate institution that was charged with organizing these
5 development projects.

6 THE COURT: And seven and eight, the last two counts.

7 MR. BOONE: Count Seven relates to Howe's former
8 employer. He used to work for a lobbying firm that was an arm
9 of a law firm. During that time period, he embezzled money
10 from that firm. That's what Count Seven is referencing.

11 Count Eight is referencing the fact that for several
12 years, Mr. Howe filed tax returns that were false. They were
13 false, in part, because they did not include the money he
14 essentially was embezzling from his law firm, from the lobbying
15 firm that was affiliated with his law firm.

16 THE COURT: As part of the plea agreement, I think I
17 noticed that prior to any sentence in this case, Mr. Howe has
18 an obligation to file correct tax returns that have not been
19 filed to date. Is that right?

20 MR. BOONE: That's correct, your Honor.

21 THE COURT: Thank you. Again, I'm going to call on
22 you a little bit later on to go over the counts, perhaps, in
23 more detail. We'll see how far we get.

24 Let me also note that I have received back from
25 Mr. Morvillo and Mr. Howe what we call an advice of rights form

1 signed by each of you and dated today's date, September 20.

2 This form advises of certain rights that one gives up by
3 pleading guilty.

4 Mr. Morvillo, I'm sure you went over this form with
5 Mr. Howe before you each signed it.

6 MR. MORVILLO: Yes, your Honor.

7 THE COURT: Mr. Howe, you understood this form and
8 went over it with Mr. Morvillo before you signed it; is that
9 right?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: There's also a document which is called a
12 waiver of indictment. It's also signed and dated today's date,
13 September 20. It's signed by Mr. Howe and by Mr. Morvillo.

14 In this document, Mr. Howe waives his right to be
15 prosecuted by an indictment, and he consents to a proceeding
16 which this is, which is based on what we call an information.

17 Mr. Morvillo, you went over that waiver of indictment
18 with Mr. Howe?

19 MR. MORVILLO: We did indeed, your Honor.

20 THE COURT: Mr. Howe, do you understand that you have
21 the right to have a proceeding based on an indictment but you
22 waive that right by signing this form?

23 THE DEFENDANT: Yes, your Honor. I read the
24 information, and I read it carefully. I understand all of it.

25 THE COURT: Fine. So I alluded to a few minutes

1 ago -- and I will mention it again now -- there is an agreement
2 dated on page 1 September 19, 2016. But I notice that the
3 original in fact has been signed on the signature page, which
4 is page 6, today and dated today, and that is the plea
5 agreement in the form of a cooperation agreement in this
6 matter.

7 Mr. Morvillo, this is an agreement between you and the
8 government, between the defense and the government. I will
9 reference some aspects of it, but the entire agreement of
10 course binds you, Mr. Howe, and the government.

11 Did you go over that plea agreement carefully with
12 Mr. Howe before you each signed it?

13 MR. MORVILLO: Yes, your Honor. Beginning yesterday,
14 and we did it again today.

15 THE COURT: Mr. Howe, are you comfortable that you
16 understand and went over in enough detail this plea agreement
17 before you signed it today?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: It's obvious, Mr. Morvillo, from this
20 agreement and the purpose for which we're here today that
21 Mr. Howe has indicated he wishes to enter a guilty plea with
22 respect to the eight counts in the information.

23 Is that a fair understanding of today's proceeding?

24 MR. MORVILLO: That is correct, your Honor.

25 THE COURT: Mr. Howe, before I accept or can accept

1 your guilty plea, I need to ask you a series of questions, and
2 the purpose of these questions is to establish to my
3 satisfaction that you in fact wish to plead guilty and that you
4 do so voluntarily and knowingly and because you are guilty and
5 also to establish that you know just what rights you're going
6 to be giving up by pleading guilty.

7 So, if you don't understand any of my questions or if
8 at any time during this proceeding you want to talk to
9 Mr. Morvillo, just say so, and I will give you as much time as
10 you need to consult with counsel because it's crucial to a
11 valid plea that you understand every question before you
12 answer.

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: I should also mention -- and I will
15 in fact right here -- that I have a copy of what's called the
16 pretrial services report. It looks like that report was
17 prepared today or very recently based on, in part, in any
18 event, more than in part, phone conversations with yourself --
19 is that right? -- and your wife as well?

20 THE DEFENDANT: A phone conversation, your Honor,
21 yesterday with myself and today via a phone conversation with
22 my wife.

23 THE COURT: If you could, I'm going to start my
24 questions for you, Mr. Howe. Could you please tell us your
25 full name.

1 THE DEFENDANT: It's Todd Ransom Howe.

2 THE COURT: Spell your middle name.

3 THE DEFENDANT: R-a-n-s-o-m.

4 THE COURT: Howe is spelled with an E on the end; is
5 that right?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: How old are you?

8 THE DEFENDANT: Fifty-six.

9 THE COURT: And you're a US citizen?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: How far did you go in school?

12 THE DEFENDANT: I received a Bachelor of Arts in 1982.

13 THE COURT: That was from what college or university?

14 THE DEFENDANT: Hartwick College in Oneonta, New York.

15 THE COURT: Are you now or have you recently been
16 under the care of a medical doctor?

17 THE DEFENDANT: No, I have not.

18 THE COURT: How about a mental health physician or
19 mental health worker?

20 THE DEFENDANT: I'm talking to a psychologist with
21 regard to financial issues.

22 THE COURT: How is your physical health?

23 THE DEFENDANT: Fine, your Honor.

24 THE COURT: How is your mental health?

25 THE DEFENDANT: It's fine.

1 THE COURT: Have you ever been addicted to drugs or to
2 alcohol?

3 THE DEFENDANT: No, sir.

4 THE COURT: Have you ever been hospitalized or treated
5 for any addiction?

6 THE DEFENDANT: No, your Honor.

7 THE COURT: Have you taken any drugs or medicine or
8 pills or drunk any alcoholic beverages in the past 24 hours?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Is there anything that might cloud your
11 answers to my questions or your frame of mind here today?

12 THE DEFENDANT: No, your Honor.

13 THE COURT: Again, I'm going to ask -- I asked this a
14 minute ago -- first of all, how you feel today physically.

15 THE DEFENDANT: Fine, your Honor.

16 THE COURT: And mentally?

17 THE DEFENDANT: Fine.

18 THE COURT: And you understand fully what's happening
19 in this proceeding and the purpose of this proceeding here in
20 court today?

21 THE DEFENDANT: Yes, your Honor. I consulted with my
22 counsel about the charges and about my decision to plead
23 guilty, and I'm comfortable.

24 THE COURT: Here is a question for the lawyers.

25 Do either of you have any doubts or concerns about

1 Mr. Howe's competence to plead at this time?

2 MR. MORVILLO: No, your Honor.

3 MR. PIERSON: No, your Honor.

4 MR. BOONE: No, your Honor.

5 THE COURT: Either do I. Based on the record
6 established here today, including Mr. Howe's own testimony, I
7 find that he is competent to plead.

8 Mr. Howe, have you had a full opportunity -- I know
9 you've answered this in part already, but it's worth going over
10 again.

11 Have you had a full opportunity to discuss all aspects
12 of this case with Mr. Morvillo?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Actually, you have two counsels. Are you
15 of the same firm?

16 MR. MORVILLO: This is my colleague, Stuart Pierson,
17 also from Morvillo LLP.

18 THE COURT: Also based in DC?

19 MR. PIERSON: Yes, your Honor.

20 THE COURT: Have you gone over all aspects of the case
21 with counsel, Mr. Howe?

22 THE DEFENDANT: Yes, I have, your Honor.

23 THE COURT: Including any possible defenses that you
24 might have to the charges set forth in the information?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: And are you fully satisfied with your
2 counsel's representation of you?

3 THE DEFENDANT: Absolutely, your Honor.

4 THE COURT: Are you fully satisfied with the legal
5 advice they have given you?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: So now I'm going to ask some questions
8 exploring some rights that you have and pose some questions
9 about those.

10 First, as I mentioned and we've been over, we have
11 here an information. There's been a waiver of indictment
12 because it's obvious from the information itself. It's a
13 sealed information, as we earlier discussed.

14 Mr. Morvillo, although we've been over it before,
15 we'll go over it one more time.

16 You and Mr. Howe are waiving indictment in this case?

17 MR. MORVILLO: Correct, your Honor.

18 THE COURT: Mr. Howe?

19 THE DEFENDANT: Correct, your Honor.

20 THE COURT: Since you've offered to plead guilty to
21 these eight counts in the information, Mr. Howe, you understand
22 that you have the right to have the evidence underlying these
23 charges or counts presented to a grand jury and to have those
24 grand jurors decide whether there was probable cause that you
25 should be charged and that by signing this waiver of

1 indictment, you gave up that right and permitted the government
2 to file this information based only on the signature of the
3 United States Attorney.

4 Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Do you understand that you have the
7 absolute right to plead not guilty here today?

8 THE DEFENDANT: Yes.

9 THE COURT: Under the constitution and laws of the
10 United States, if you plead not guilty or if you pled
11 not guilty, you would be entitled to a speedy and public trial
12 by a jury on the charges set forth in the information.

13 Do you realize that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: If you decided to have a trial, you would
16 be presumed to be innocent at the beginning of the trial, the
17 government would be required to prove that you were guilty by
18 competent evidence and beyond a reasonable doubt before you
19 could be found guilty, a jury would have to agree unanimously
20 that you were guilty, and you would not at a trial have to
21 prove that you were innocent.

22 Do you realize that?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Also at a trial, if you decided to have
25 one, and at every stage of your case, you would be entitled to

1 be represented by an attorney as you are today and have been in
2 these proceedings. If you could not afford an attorney, one
3 would be appointed at public expense to represent you.

4 Do you realize that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Also during a trial, if you opted to have
7 a trial instead of pleading here today, the witnesses for the
8 government would have to come to court and testify in your
9 presence, your attorney could cross-examine those witnesses for
10 the government, the government witnesses. He could object to
11 evidence offered by the government, and he could offer evidence
12 and subpoena witnesses on your behalf.

13 Do you realize that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Also at a trial, if you decided to have
16 one, although you would have the right to testify if you chose
17 to do so, you would also have the right not to testify, and
18 no one, including, particularly the jury, could draw any
19 inference or suggestion of guilt from the fact that you did not
20 testify if that's what you chose to do.

21 Do you realize that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Even now this afternoon as you're entering
24 this guilty plea, you still have the right to change your mind
25 and to plead not guilty and to go to trial on the charges set

1 forth in the information.

2 Do you realize that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: If you do plead guilty and if I accept
5 your guilty plea, then you'll be giving up your right to a
6 trial and the other rights that I've been discussing with you,
7 and there will be no trial.

8 I will, nevertheless, enter a judgment of guilty
9 against you, and I will thereafter, not today, sentence you on
10 the basis of your guilty plea after having considered a
11 presentence investigation report, which is prepared by the
12 probation department, and whatever submissions I might get from
13 your counsel and from the government.

14 Do you realize that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Again, I'll ask if you have received a
17 copy of the information and reviewed it and the charges
18 contained in the information with your counsel.

19 THE DEFENDANT: Yes, your Honor. I did.

20 THE COURT: Have you discussed fully those charges in
21 the information to which you intend to plead guilty today?

22 THE DEFENDANT: Yes, I have, your Honor.

23 THE COURT: Again, some of these questions are
24 repetitive, but it's worth taking the time.

25 Are you fully satisfied with Mr. Morvillo and

1 Mr. Pierson's legal representation of you and their legal
2 advice to you?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: So let's now turn to the information and
5 to the eight counts.

6 Counsel for the government has indicated that Counts
7 One, Two, and Three relate to a single conspiracy or the same
8 conspiracy.

9 Is that a fair statement?

10 MR. MORVILLO: Yes, your Honor. I think Mr. Howe, for
11 purposes of allocution, would group them the same way that
12 Mr. Boone did.

13 THE COURT: I'll go through them first, and then I'm
14 going to ask him to explain what it is that he did that makes
15 him believe that he's guilty of each of those eight counts.

16 Count One is an honest services conspiracy which
17 says -- this is just a rough summary. I should make very clear
18 that the information contains all of these counts in their
19 entirety. That information is incorporated here by reference,
20 and it speaks for itself. My summary is not intended to be
21 exhaustive. So it's just to get us through the proceeding, so
22 to speak.

23 So Count One says, in sum and substance, that from in
24 or about 2010 to 2016 in the Southern District of New York and
25 elsewhere, Mr. Howe unlawfully conspired, together with others,

1 to violate 18 U.S. Code, Sections 1343 and 1346.

2 An object of the conspiracy was to deprive the public
3 of its right to have the honest services of a high-level
4 official in the office of the governor of the state of New York
5 act in their best interests, so to speak.

6 In this conspiracy, it is charged that Mr. Howe agreed
7 with a high-level official in the governor's office in the
8 state of New York and others to use the power and influence of
9 that high-level official's position to obtain for him thousands
10 of dollars in bribes in exchange for taking favorable official
11 action for certain companies that Mr. Howe represented as a
12 consultant.

13 Count Two in summary says that from in or about 2010
14 up to and including in or about 2016, again in the Southern
15 District of New York, Mr. Howe conspired with others to violate
16 18 U.S. Code, Section 1951.

17 It is charged that in this conspiracy Mr. Howe and
18 others would and did arrange for entities with business before
19 New York state to direct payments to a high official in the
20 office of the governor of the state of New York in exchange for
21 that high official's taking of official action on their behalf.
22 You can see, of course, how this, as the government has pointed
23 out, Count Two relates to Count One.

24 Count Three, which also relates to this same
25 conspiracy, is an extortion conspiracy under color of official

1 right. It says that during that same time period, Mr. Howe
2 knowingly conspired with others to violate 18 U.S. Code,
3 Section 1951 insofar as he aided and abetted a high official,
4 the same high official we've been talking about in the earlier
5 counts, in the New York State Governor's Office by helping the
6 high official obtain payments from entities with business
7 before New York state in exchange for the high official's
8 taking of official action on their behalf. So those are the
9 first three counts.

10 Did the government want to add anything to the summary
11 of those three counts?

12 MR. BOONE: Your Honor, I believe in regards to Count
13 Three, which is the substantive charge of extortion under color
14 of official right, I believe you may have said "conspiring." I
15 just want to make sure that it's not a conspiracy charge.

16 THE COURT: Right. This is the substantive count.
17 Right. You're quite right.

18 Any other corrections? Are you comfortable then with
19 those summaries of Counts One, Two, and Three with that
20 addition?

21 MR. MORVILLO: We are, your Honor.

22 THE COURT: And the government as well?

23 MR. BOONE: Yes, your Honor.

24 THE COURT: So, moving to Count Four, this is in
25 regard to the second conspiracy that the government summarized

1 at the very outset of our conversation, and it pertains to
2 charges contained in Counts Four, Five, and Six. Counts Four
3 and Six are conspiracy counts, and Count Five is a wire fraud
4 allegation.

5 So Count Four says that in or about 2013 up to and
6 including 2015 in the Southern District of New York and
7 elsewhere, Mr. Howe conspired with others.

8 And, in summary, in that conspiracy, Mr. Howe and
9 others devised a scheme to defraud an entity charged with
10 awarding significant taxpayer-funded development contracts by
11 secretly tailoring the entity's request for proposals for those
12 projects so that the requests for proposal would include
13 qualifications held by companies that had retained and paid
14 Mr. Howe as a consultant and thus virtually ensure that
15 Mr. Howe's clients would be and were awarded those contracts.

16 Counts Five is a wire fraud count. It says that
17 Mr. Howe intentionally committed acts which constitute wire
18 fraud with respect to Count Five in or about 2013 up to and
19 including 2015 in the Southern District of New York; that
20 Mr. Howe devised a scheme to defraud an entity charged with
21 awarding significant taxpayer-funded development contracts by
22 secretly tailoring the entity's request for proposals for those
23 projects so that the requests for proposals, as I mentioned a
24 minute ago, would require qualifications that were held by
25 Mr. Howe's clients' companies that had retained him and paid

1 him as a consultant and thus ensured that those clients would
2 be awarded the contracts.

3 As to Count Seven --

4 MR. BOONE: Six, your Honor.

5 THE COURT: I'm going to come back to Count Six.

6 As to Count Seven, it charges that in or about 2009
7 through 2016 -- this is in the Northern District of New York.
8 Is that correct? This activity took place in Count Seven? Or
9 is that also the Southern District of New York?

10 MR. BOONE: That's correct, your Honor.

11 THE COURT: Which is?

12 MR. BOONE: The Northern District.

13 THE COURT: And also the District of Columbia and
14 elsewhere? Is that right?

15 MR. BOONE: Yes.

16 THE COURT: Mr. Howe engaged in a scheme to defraud
17 his former employer, a government relations firm. Two ways are
18 described. One is by depositing checks intended for the
19 government relations firm without the firm's authorization in
20 an account that he only controlled.

21 And the other is falsely claiming to have incurred
22 travel expenses in relation to work associated with certain
23 clients of the government relations firm and then seeking
24 reimbursement from those clients for fraudulent expenses.

25 Count Six, returning to Count Six, is a conspiracy to

1 commit bribery. It says that from in or about 2013 up to and
2 including in or about 2015 in the Southern District of New York
3 and elsewhere, Mr. Howe conspired with others to violate 18
4 U.S. Code, Section 666(a)(1)(B).

5 Count Six refers to the solicitation of bribes in
6 excess of \$10,000 so that the arm of the New York state
7 government agency would grant contracts, subsidy loan
8 guarantee, etc., forms of federal assistance, to clients of
9 Mr. Howe.

10 Is that a fair statement of Count Six?

11 MR. BOONE: Yes, your Honor.

12 MR. MORVILLO: Yes, your Honor.

13 THE COURT: Do you want to expand on that at all at
14 this time?

15 MR. MORVILLO: Only that I think the substantive
16 charge is that monies were paid to Mr. Howe and that that would
17 constitute the bribery I believe in that count.

18 THE COURT: Then Count Eight is all that remains. We
19 went out of turn and did Five, Seven, and Six. And now Count
20 Eight is remaining.

21 Count Eight is a tax evasion count which charges that
22 from January 1, 2010, through 2015, Mr. Howe, through the
23 filing of returns in the Eastern District of Virginia, in the
24 Northern District of New York, and elsewhere willfully
25 attempted to evade and defeat the payment of tax on a

1 substantial part of his income during that period by filing
2 false tax returns. That's the summary, as I see it.

3 Does anybody want to add anything to the summary?
4 Remembering that the full count is set forth in the information
5 and speaks for itself. If you want to correct any of those
6 summaries, feel free to do it.

7 MR. BOONE: No, your Honor. Just to point out what is
8 obvious, that there is a forfeiture allegation.

9 THE COURT: Right.

10 MR. MORVILLO: No, your Honor. I believe that's a
11 fair summary.

12 THE COURT: I'm going to turn to the government again
13 for a moment and ask the government.

14 So the plea agreement describes the total maximum
15 punishment or penalty in terms of incarceration that can be
16 imposed for these eight crimes as 130 years of imprisonment.

17 Did you want to break that down any and talk about
18 each count or counts separately in terms of penalty.

19 MR. BOONE: I can, your Honor. Starting with Count
20 One, which charges the defendant with participating in a
21 conspiracy to commit honest services fraud in violation of
22 Title 18, U.S. Code, Section 1349, carries a maximum sentence
23 of 20 years' imprisonment, a maximum term of three years'
24 supervised release, a maximum fine of \$250,000, and a special
25 assessment of \$100.

1 THE COURT: Mr. Howe, do you understand those maximums
2 for, first, the overall of 130 but now the maximums for Count
3 One?

4 THE DEFENDANT: Yes, your Honor.

5 MR. BOONE: In terms of Count Two, your Honor, it
6 charges the defendant with conspiracy to commit extortion under
7 the color of official right in violation of Title 18, U.S.
8 Code, Section 1951.

9 Count Two carries a maximum sentence of 20 years'
10 imprisonment, a maximum term of three years' supervised
11 release, a fine of \$250,000, and a special assessment of \$100.

12 THE COURT: Mr. Howe, do you understand those maximums
13 to be applicable to Count Two?

14 THE DEFENDANT: Yes, your Honor.

15 MR. BOONE: In regards to Count Three, it charges the
16 defendant with the substantive act of extortion under the color
17 of official right in violation of Title 18, U.S. Code, Sections
18 1951 and (2).

19 Count Three carries a maximum sentence of 20 years'
20 imprisonment, a maximum term of three years' supervised
21 release, a maximum fine of \$250,000, and a special assessment
22 fee of \$100.

23 THE COURT: And you understand, again, Mr. Howe, those
24 maximums to be applicable to Count Three?

25 THE DEFENDANT: Yes, your Honor.

1 MR. BOONE: Count Four charges the defendant with
2 conspiracy to commit wire fraud in violation of Title 18, U.S.
3 Code, Section 1349. Count Four carries a maximum sentence of
4 20 years' imprisonment, a maximum term of three years'
5 supervised release, a maximum fine of \$250,000, and a special
6 assessment fee of \$100.

7 THE COURT: Mr. Howe, do you understand those to be
8 the maximum possible penalties for Count Four?

9 THE DEFENDANT: Yes, your Honor.

10 MR. BOONE: Count Five, your Honor, charges the
11 defendant with wire fraud and the substantive act of wire fraud
12 in violation of Title 18, U.S. Code, Sections 1343 and (2).

13 Count Five carries a maximum sentence of 20 years'
14 imprisonment, a maximum term of three years' supervised
15 release, a maximum fine of \$250,000, and a special assessment
16 fee of \$100.

17 THE COURT: Mr. Howe, do you understand those to be
18 the maximum penalties for Count Five?

19 THE DEFENDANT: Yes, your Honor.

20 MR. BOONE: Count Six charges the defendant with
21 conspiracy to commit bribery in violation of Title 18, U.S.
22 Code, Section 371. Count Six carries a maximum sentence of
23 five years' imprisonment, a maximum term of three years'
24 supervised release, a maximum fine of \$250,000, and a special
25 assessment fee of \$100.

1 THE COURT: And do you understand those to be the
2 maximum penalties for Count Six?

3 THE DEFENDANT: Yes, your Honor.

4 MR. BOONE: Count Seven charges the defendant with the
5 substantive act of wire fraud in violation of Title 18, U.S.
6 Code, Section 1343. As mentioned earlier, in regards to wire
7 fraud, it carries a maximum sentence of 20 years' imprisonment,
8 a maximum term of three years' supervised release, a maximum
9 fine of \$250,000, and a special assessment fee of \$100.

10 THE COURT: Mr. Howe, do you understand those to be
11 the maximum penalties for a violation of Count Seven?

12 THE DEFENDANT: Yes, your Honor.

13 MR. BOONE: Count eight charges the defendant with
14 attempting to evade and defeat a substantial part of the income
15 taxes due and owing by him to the United States of America for
16 the calendar years 2010 through 2015 in violation of Title 26,
17 U.S. Code, Section 7201.

18 Count Eight carries a maximum sentence of five years'
19 imprisonment, a maximum term of three years' supervised
20 release, a maximum fine of \$100,000, and a \$100 special
21 assessment.

22 THE COURT: Mr. Howe, do you understand those to be
23 the maximum penalties of a violation of Count Eight?

24 THE DEFENDANT: Yes, your Honor.

25 MR. BOONE: Just so the record is clear, your Honor,

1 when I mentioned that the maximum fine for certain charges was
2 \$250,000, as laid out in the cooperation agreement, it's the
3 greatest of \$250,000, twice the gross pecuniary gain derived
4 from the offense, or twice the gross loss to a person other
5 than the defendant as a result of the offense.

6 THE COURT: Correct. While we're at or near the
7 provision, page 10 in the sealed information, as counsel
8 pointed out before, counsel for the government that is, there
9 is this forfeiture allegation.

10 Paragraph 14 says that Todd Howe shall forfeit to the
11 United States pursuant to Title 18, U.S. Code, Sections
12 981(a)(1)(C) and Title 28, U.S. Code, Section 2461 any and all
13 property, real and personal, that constitutes or is derived
14 from proceeds traceable to these offenses, including but not
15 limited to a sum of United States currency representing the
16 amount of the proceeds traceable to the commission of these
17 offenses or crimes.

18 Is that your understanding, Mr. Morvillo?

19 MR. MORVILLO: Yes, it is, your Honor.

20 THE COURT: And, Mr. Howe, do you understand that
21 forfeiture provision of the information as well?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Counsel for the government, could you just
24 review quickly any restitution obligation set forth in the plea
25 agreement.

1 MR. BOONE: Yes, your Honor.

2 THE COURT: I think it's on page 2.

3 MR. BOONE: Yes, your Honor. Starting at the bottom
4 of page 2 of the cooperation agreement, it states, "It is
5 further understood that Howe shall make restitution in an
6 amount to be specified by the Court in accordance with 18 U.S.
7 Code, Sections 3663, 3663(a), and 3664. This amount shall be
8 paid in accordance with a plan established by the Court."

9 THE COURT: Mr. Howe, do you understand that you have
10 this restitution as well under the plea agreement?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Mr. Howe, do you think you fully
13 understand the maximum penalties to which you would be exposed
14 by entering this plea here today?

15 THE DEFENDANT: Yes, your Honor, I do.

16 THE COURT: Do you understand that a felony
17 adjudication, which this plea would represent several felony
18 adjudications, may result in your being deprived of certain
19 rights that you have, including the right to vote, the right to
20 hold public office, and the right to serve on a jury, as well
21 as the right to possess a firearm?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that there is no parole
24 as commonly understood in the federal system, which is where we
25 are?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand, as counsel for the
3 government alluded to a minute or so ago, that in addition to
4 incarceration, you could be subject to a period of supervised
5 release with respect to each of the counts?

6 And with respect to supervised release, you need to be
7 aware that there would be terms and conditions attached and
8 that if you failed to comply with those terms and conditions,
9 you could, following a hearing, be returned to prison.

10 Do you realize that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand that any hearing in
13 connection with whether or not you were in compliance with the
14 terms and conditions of supervised release would be a nonjury
15 proceeding just before me?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Are you currently serving any other
18 sentences, state or federal?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: Are you being prosecuted in any other
21 courts for any other crimes?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: I know that Mr. Morvillo will do this in
24 greater detail as we get closer to the sentencing and probably
25 has already begun talking about sentencing.

1 In connection with sentencing, I like to point out
2 during plea allocutions, first that the so-called "mandatory
3 sentencing guidelines" as a result of Supreme Court and Second
4 Circuit decisions over the last eight years or so, they are no
5 longer mandatory.

6 When we get to sentencing, in order to come up with a
7 fair and a reasonable sentence, I will address the factors
8 found in a statute referred to as 18 U.S. Code, Section
9 3553(a). And those factors include the nature and the
10 circumstances of the offense or offenses; the history and
11 characteristics of yourself, usually as set forth in the
12 presentence investigation report; and any submissions I might
13 get from your attorneys and from the government and of course
14 also the plea agreement.

15 We try to accomplish these objectives at sentencing:
16 to reflect the seriousness of the crimes, to promote respect
17 for the law, to provide a just punishment, to afford adequate
18 deterrence to criminal conduct, to protect the public from
19 further crimes, to provide defendants with needed educational
20 or vocational training or medical care or other correctional
21 treatment in the most effective manner.

22 In doing all that, I will look at the kinds of
23 sentences that are available, the kinds of sentences and the
24 sentencing range established in the sentencing guidelines, even
25 though, as I said before, those are no longer mandatory.

1 I'll look at any policy statements issued by the
2 United States Sentencing Commission that may apply to your case
3 and seek to avoid unwarranted sentence disparities among
4 similarly situated defendants and finally to provide, as we've
5 discussed briefly already, for restitution.

6 Mr. Morvillo, I don't know if you've had that
7 conversation or started that conversation with Mr. Howe.

8 MR. MORVILLO: We have, your Honor.

9 THE COURT: Do you have some understanding now,
10 Mr. Howe, as to how we'd go about trying to fashion a fair and
11 reasonable sentence in your case?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you realize that even if you don't like
14 the sentence that I impose, you would not for that reason alone
15 be able to withdraw today's guilty plea?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you realize -- counsel, this is a
18 question for you too -- there is a provision in the plea
19 agreement, which is fairly routine, but says that the
20 defendant, Mr. Howe in this case, understands that the sentence
21 to be imposed upon him is imposed in the discretion of the
22 Court.

23 Do you agree with that principle, counsel?

24 MR. MORVILLO: We do, your Honor.

25 THE COURT: Counsel for the government?

1 MR. BOONE: Yes, your Honor.

2 THE COURT: Mr. Howe, do you understand that?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Bottom line, so to speak, Mr. Howe, do you
5 think you fully understand the consequences of pleading guilty
6 here today?

7 THE DEFENDANT: Yes, I do, your Honor.

8 THE COURT: Has anyone threatened you or in any way
9 forced you to plead guilty?

10 THE DEFENDANT: No, your Honor.

11 THE COURT: Including any attorneys.

12 THE DEFENDANT: No, your Honor.

13 THE COURT: I'll go over just briefly again or refer
14 briefly again to the plea agreement, which is a cooperation
15 agreement, dated September 19 and signed today on September 20.

16 You carefully reviewed and went over that agreement
17 with your counsel?

18 THE DEFENDANT: Yes, I did, your Honor.

19 THE COURT: As in the case of the information, it
20 speaks for itself in its entirety. I'll highlight one or two
21 provisions at this point.

22 I think I mentioned this at the beginning. First of
23 all, it provides that two weeks prior to any sentence that you
24 would file amended tax returns for calendar years 2010 through
25 2015 and you would also pay any past taxes that are due and

1 owing for that period.

2 Do you recall that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: It also provides that you will have a
5 restitution obligation and a forfeiture obligation as we've
6 discussed.

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: It provides also that -- this is certainly
9 a key aspect of the agreement. It says, in sum and substance,
10 that if you fully comply with the terms of the plea agreement,
11 in particular, with your obligations to cooperate with the
12 government in connection with any investigations that it has
13 undertaken or will undertake, then the government agrees that
14 it will file on your behalf what is called a 5K1.1 motion
15 bringing to the Court's attention the extent and nature of the
16 cooperation that you've provided.

17 Do you realize that?

18 THE DEFENDANT: Yes, your Honor. I do.

19 THE COURT: Has anybody at all made any promise or
20 inducement to cause you to plead guilty today?

21 THE DEFENDANT: No, your Honor.

22 THE COURT: Has anybody made any promise to you as to
23 what your sentence in this case will be?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Including any attorneys.

1 THE DEFENDANT: No, your Honor.

2 THE COURT: Now, turning back to the government, we've
3 been over these counts pretty thoroughly. I would ask the
4 government what, in summary, it believes it would be able to
5 prove in court if this case were to go to trial instead of
6 being resolved by this plea allocution here today.

7 MR. BOONE: Certainly, your Honor. I'll discuss sort
8 of the conspiracies as we have so far. The first one that we
9 mentioned earlier involved Mr. Howe acting as a conduit for
10 making payments to CC1 as referenced in the information.

11 The government would use emails, documents, including
12 bank documents and government documents, as well as witness
13 statements to prove its case. We believe that those documents
14 would show that payments in fact were made to CC1 and also show
15 that Mr. Howe acted as a conduit in ensuring that those
16 payments got there.

17 We also believe that documents, including emails,
18 would show that there was an agreement. There was a conspiracy
19 that existed, the purpose of which was for Mr. Howe to help CC1
20 receive payments in exchange for him performing official
21 actions on behalf of Mr. Howe's clients who were the source of
22 those payments.

23 In regards to what we have been discussing as sort of
24 the second conspiracy --

25 THE COURT: Before you get to that, that first one

1 covers the time period 2010 to 2016, did it?

2 MR. BOONE: That's correct, your Honor.

3 THE COURT: And it occurred in or about the Southern
4 District of New York?

5 MR. BOONE: Yes, your Honor. We would have evidence
6 showing that certain meetings involving the conspiracy occurred
7 in Manhattan in particular.

8 THE COURT: Thank you. You were going to turn to the
9 second conspiracy.

10 MR. BOONE: Yes, your Honor. In the second
11 conspiracy, we would again use documents that would include
12 emails, bank documents, government documents, as well as
13 witness statements to show that Mr. Howe was acting as a
14 representative, as the agent of the state, and that in that
15 capacity, he was helping tailor what we've termed as "requests
16 proposals" by an entity that was charged with doling out
17 certain development projects and that he was doing that on
18 behalf of his own clients and that those clients were paying
19 him money in return for his help in that regard.

20 THE COURT: This conspiracy was in a little bit
21 different time period here. Was it 2013 to 2015?

22 MR. BOONE: Yes. That's correct, your Honor. In
23 regards to venue, we would have evidence that would include
24 witness statements and documents showing that the entity
25 charged with overseeing and doling out these government

1 contracts had interactions with a state agency in New York City
2 that was charged with essentially helping pay for those
3 projects.

4 THE COURT: Before I referred to SUNY as being
5 involved in this. That wasn't really specific enough.

6 Could you clarify the agency that we were talking
7 about by name.

8 MR. BOONE: Yes, your Honor. It's an entity
9 affiliated with the Colleges of Nanoscale, N-a-n-o-s-c-a-l-e,
10 Science and Engineering.

11 THE COURT: Thank you. I think we adequately
12 described Counts Seven and Eight earlier. Is that fair to say?

13 MR. MORVILLO: Yes, your Honor. We refer to the long
14 name that we call SUNY Nano so that when Mr. Howe speaks,
15 you'll understand that's the state agency.

16 THE COURT: Okay.

17 Mr. Howe, having heard the government summarize what
18 it feels that it could prove if this case were to go to trial
19 instead of eventuating in a plea as we're progressing to do
20 today and in light of the questions I've asked you up until now
21 and the answers you've already given, is it your wish at this
22 time to plead guilty or not guilty to Counts One through Eight
23 in the information?

24 THE DEFENDANT: Guilty, your Honor.

25 THE COURT: And now, if you would, tell me, in your

1 words, what it is that you've done that makes you believe that
2 you are in fact guilty of those eight crimes as set forth in
3 Counts One through Eight of the information.

4 THE DEFENDANT: Of course, your Honor. With respect
5 to Count One, Count Two, and Count Three, during the period
6 from 2010 to 2016, I knowingly and intentionally conspired with
7 co-conspirator 1, a high-ranking official in the Office of the
8 Governor of the State of New York, and others to deprive the
9 public of the intangible right of honest services of the Office
10 of the Governor of New York State.

11 I also knowingly and, regretfully, intentionally aided
12 and abetted CC1 by helping him obtain payments from entities
13 with business before New York state in exchange for his taking
14 official action on their behalf and for using his influence
15 over other New York state officials on behalf of those
16 entities.

17 As part of that conspiracy and agreement with CC1, I
18 solicited and made arrangements to have certain of my clients
19 with business before the state pay bribes to co-conspirator 1
20 in exchange for his using his official position in the
21 governor's office to assist my clients.

22 Based on those arrangements, several of my clients
23 paid thousands of dollars in bribes to or for the benefit of
24 CC1 in return for using the power and influence of the official
25 position in the governor's office to take official action on

1 behalf of my clients to assist them in procuring contracts for
2 the state of New York.

3 During the period of 2010 to 2016, I helped make
4 arrangements for clients of mine to pay thousands of dollars of
5 bribes directly and indirectly to CC1 for his personal use and
6 enjoyment.

7 In return, he agreed to use and did use his official
8 position within the governor's office to help my clients
9 procure lucrative contracts with the state government or
10 contracting agents and to use his influence with other
11 officials in New York state on my clients' behalf.

12 In one situation, I received thousands of dollars of
13 funds from a client designed for CC1 and used those funds to
14 pay CC1 as we had agreed upon. In another instance, I used
15 funds that I embezzled from my firm or received directly from
16 firm clients to make additional payments of thousands of
17 dollars to CC1.

18 I agreed to be a conduit for payments from my client
19 to CC1 and also upon additional payments myself to conceal from
20 my employer and the public the fact that my client in certain
21 circumstances made such bribe payments to a New York state
22 governmental official in exchange for his taking official
23 action and for using his influence with other state government
24 official on my client's behalf.

25 Also, in addition, I caused and assisted another

1 client to pay CC1 thousands of dollars for his help in using
2 his public position with the state, take favorable official
3 action on my client's behalf with regard to business or
4 potential business for New York state, and to ensure that the
5 client was favorably considered for a lucrative contract with
6 the state government.

7 In that case, I arranged for my client to hire,
8 through another company, CC1's spouse for the express purpose
9 of paying thousands of dollars to her and, therefore,
10 indirectly to him.

11 As part of the conspiracy, I met with CC1 and other
12 members of the conspiracy on several occasions between 2010 and
13 2016 here in New York City. In engineering the foregoing acts,
14 I used the mails, email and other instruments of interstate
15 commerce, to make arrangements for the payments to CC1 and in
16 certain cases did make the payments to CC1 to his wife or on
17 his behalf.

18 If it's okay, your Honor, I'll move to Counts Four,
19 Five, and Six, if I could.

20 THE COURT: Okay. Mr. Morvillo, has Mr. Howe not
21 covered some of those counts already?

22 MR. MORVILLO: Not in that, no. This is a separate
23 conspiracy about tailoring the RFP's your Honor.

24 MR. BOONE: If I could, your Honor, I just want to
25 make it clear in regards to the wire element. He did mention

1 emails. I just wanted to make that clear.

2 THE COURT: So, government, you're okay with his
3 allocution so far?

4 MR. BOONE: We're okay, your Honor.

5 THE COURT: And you are, Mr. Morvillo?

6 MR. MORVILLO: Yes.

7 THE COURT: Go ahead.

8 THE DEFENDANT: With respect to Count Four,
9 Count Five, and Count Six, from at least 2013 up to 2015, I
10 knowingly and intentionally conspired with others to defraud
11 SUNY Nano, a government agency charged with ordering
12 taxpayer-funded contracts through which I received over \$10,000
13 in connection with a federal program.

14 I did so by secretly having SUNY Nano, a client of
15 mine, tailor its requests for proposals relating to
16 construction projects so that they required qualifications
17 possessed by my clients.

18 As part of this --

19 THE COURT: Was SUNY Nano your client?

20 THE DEFENDANT: Yes, it was, your Honor. As part of
21 this conspiracy, I worked as a consultant for SUNY Nano at the
22 same time that I provided consulting services to two other
23 clients who bid for different contract awards.

24 I defrauded SUNY Nano by soliciting the consulting
25 work, demanding and accepting payment of thousands of dollars

1 as SUNY Nano's agent in exchange for my help in influencing the
2 requests for proposals issued by SUNY Nano, required
3 credentials possessed by my two clients in a manner that
4 virtually ensured that my clients would each be awarded
5 respective contracts.

6 Because of my position as a consultant to both SUNY
7 Nano and the bidders in the two projects, I had access to and
8 influence over the draft requests for the proposals prepared
9 for their respective contracts.

10 I sought, obtained, and conveyed to SUNY Nano
11 information concerning the qualifications my clients had and
12 used that information and the assistance of other members of
13 the conspiracy to have SUNY Nano secretly tailor its final
14 request for proposals for those projects that the requests for
15 proposals required qualifications that were, in a sense,
16 qualifications of my clients.

17 In one instance, I forwarded an RFP location and
18 purpose of the taxpayer-funded construction project to my
19 clients which gave them an informational advantage over any
20 other entities that might bid for the project.

21 I therefore helped the client provide particular
22 qualifications to SUNY Nano and then, with the assistance of
23 other conspirators, caused SUNY Nano to tailor its request for
24 proposals to include particular qualifications of my client.

25 I engaged in similar activities while serving as an

1 agent of SUNY Nano that resulted in another client of mine
2 being awarded a construction contract by SUNY Nano in the
3 central, north, and Syracuse area.

4 During the forementioned period, I utilized the mails,
5 emails, and other instruments of interstate commerce to send
6 and receive communication and monies in furtherance of this
7 conspiracy.

8 During the conspiracy, I attended several meetings
9 here in New York City that related to the clients that are
10 referenced above.

11 MR. MORVILLO: Your Honor, I only make one correction.
12 I think he misspoke by saying he forwarded an RFP to a client.
13 I think it was a PowerPoint presentation related to that.

14 THE DEFENDANT: Correct.

15 THE COURT: Just for my edification, SUNY Nano was
16 located where?

17 THE DEFENDANT: In Albany, your Honor.

18 THE COURT: Okay.

19 THE DEFENDANT: In relation to Count Seven --

20 THE COURT: Before we get there, is the government
21 okay with Counts Four, Five, and Six?

22 MR. BOONE: One moment, your Honor.

23 (Pause)

24 MR. BOONE: Your Honor, if we could have the defendant
25 make clear, when he mentioned that he had defrauded SUNY Poly,

1 SUNY Nano as he referred to it, by secretly tailoring the
2 RFP's, that what is implied in saying "secretly" is that people
3 at SUNY Poly were not aware.

4 THE COURT: Were not aware?

5 MR. BOONE: Right.

6 THE COURT: Is that correct? That they were not aware
7 that you in fact were tailoring the RFP? Or were they aware of
8 that?

9 MR. MORVILLO: May I speak with him a minute?

10 THE COURT: Sure.

11 MR. BOONE: To be clear, some people were not aware.

12 MR. MORVILLO: That was the clarification.

13 THE COURT: Just for the record, the correct facts are
14 what? Some people were aware and some were not?

15 MR. MORVILLO: There were one or more coconspirators
16 employed by SUNY Nano. As an institution, it was not aware of
17 it.

18 THE COURT: Is that a correct statement?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Is it okay to move to Seven and Eight?

21 MR. BOONE: Yes, your Honor.

22 THE COURT: Go ahead, Mr. Howe.

23 THE DEFENDANT: Count Seven, your Honor. During the
24 period from 2009 through 2016, I knowingly and intentionally
25 used interstate communications to defraud my employer, a

1 government relations firm, of several hundred thousand dollars
2 by depositing checks intended for my employer into an account I
3 opened up in my employer's name without my employer's knowledge
4 or authorization and then transferring the funds to a personal
5 account for my use without the firm's authorization.

6 THE COURT: And the account that you opened up you had
7 sole control over I take it?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And that former employer was located in?

10 THE DEFENDANT: In Albany. Having several clients pay
11 fees and bonuses related to services I provided while employed
12 with the firm into an account I opened, owned, and controlled
13 without the authorization and knowledge of my employer.

14 I did not disclose this to the firm and in fact
15 concealed the arrangements I made and the payments I received
16 from clients for services I provided while an employee of the
17 firm.

18 THE COURT: I'm sorry. I didn't quite get that. Slow
19 down if you could. Just repeat that.

20 THE DEFENDANT: I did not disclose to the firm and
21 in fact concealed the arrangements I made and the payments I
22 received from clients for services I provided while an employee
23 of the firm.

24 THE COURT: Okay.

25 THE DEFENDANT: I did not disclose to the firm and

1 in fact concealed the arrangements I made -- I guess I just
2 said that. I apologize.

3 THE COURT: That's all right.

4 THE DEFENDANT: I also falsely claimed and submitted
5 to various clients of the firm employing my travel requests for
6 thousands of dollars had already been reimbursed for by the
7 firm or the clients for whom I actually incurred the travel
8 expenses. In this fashion, I sometimes collected two types the
9 amount of the travel expenses and kept the overcharges for my
10 personal use.

11 Count Eight.

12 THE COURT: The government is okay with Count Seven as
13 described?

14 MR. BOONE: Yes, your Honor.

15 THE DEFENDANT: Count Eight, your Honor. In each of
16 the years 2010 through 2015, I knowingly and intentionally
17 defrauded the US by filing false tax returns.

18 In filing my tax returns, I intentionally failed to
19 include as income any of the funds I misappropriated from my
20 employer or were paid directly to my personal business account.
21 In the aggregate over that period, I failed to report in my
22 taxes over those particular years.

23 In addition, during 2010 to 2015, I knowingly and
24 intentionally claimed deductions for business-related expenses
25 in excess of what I actually incurred.

1 THE COURT: Was it your intention to state a dollar
2 amount with respect to Count Eight? I'm not saying you need to
3 if that wasn't part of your allocution. I didn't quite
4 understand.

5 MR. MORVILLO: I'm not sure that we and the government
6 know exactly what the government's contentions are with regard
7 to the dollars.

8 THE COURT: Mr. Howe wasn't intending to state an
9 amount in his allocution?

10 MR. MORVILLO: No, your Honor. I think we can safely
11 say it was in excess of \$1.5 million.

12 MR. BOONE: Yes, your Honor. The rest of the
13 allocution was fine. We did want to go back briefly to his
14 allocution regarding Counts Four through Six.

15 THE COURT: Okay.

16 MR. BOONE: Just for belt and suspenders, in relation
17 to the part of the conspiracy charged that requires the
18 transaction to which the payment related was at least \$5,000,
19 Mr. Howe described that he accepted bribes to help tailor RFP's
20 for construction projects. I think if he could speak to the
21 value of those projects and whether or not they were over
22 \$5,000.

23 THE COURT: The value of the bribe or the value of the
24 projects?

25 MR. BOONE: Both actually.

1 THE COURT: If you can with regards to that.

2 THE DEFENDANT: The value of the bribe was in excess
3 of \$5,000, and the projects that we're referring to were
4 millions of dollars.

5 THE COURT: Each project?

6 THE DEFENDANT: Yes.

7 THE COURT: Were they mostly construction projects?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Where did they take place?

10 THE DEFENDANT: In the upstate area, western New York,
11 Buffalo, and in Syracuse, in the central New York area.

12 THE COURT: Are you satisfied?

13 MR. BOONE: Yes, your Honor.

14 THE COURT: I didn't mean to cut you off. Had you
15 finished?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: So then my question to you is: Are you
18 pleading guilty to these eight crimes because you are in fact
19 guilty of each of them?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Does the government counsel agree that
22 there's a sufficient factual predicate for this guilty plea
23 with respect to each of the eight counts in the information?

24 MR. BOONE: Yes, your Honor.

25 THE COURT: Do you, Mr. Morvillo, as well?

1 MR. MORVILLO: Yes, your Honor.

2 THE COURT: So am I. It is the finding of the Court
3 in this matter, US v. Todd Howe, that Mr. Howe is fully
4 competent and capable of entering an informed plea; that he is
5 aware of the nature of the charges and the consequences of his
6 plea, and that the plea of guilty is a knowing and voluntary
7 plea supported by an independent basis in fact supporting each
8 of the essential elements of the eight offenses set forth in
9 the information.

10 So the plea is, therefore, accepted by the Court, and
11 the defendant, Mr. Howe, is now adjudged guilty of each of
12 those eight offenses set forth in the information.

13 In terms of next steps or a next date, do you have any
14 sense of when you want to come back before the Court for any
15 reason, even for a status? A status would be helpful if you're
16 anticipating not going to sentencing near term.

17 MR. BOONE: Can I confer with counsel?

18 THE COURT: Absolutely.

19 (Pause)

20 MR. BOONE: Your Honor, both sides are in agreement
21 and proposing for your consideration that we set a control date
22 approximately six months from today.

23 THE COURT: So, just as a matter of practice, could I
24 impose upon you to come back in four months just to let us know
25 where things stand.

1 MR. MORVILLO: Absolutely.

2 MR. BOONE: Yes, your Honor.

3 THE COURT: How about January 23 for an interim status
4 report? Is it feasible for you to do an early morning,
5 Mr. Morvillo?

6 MR. MORVILLO: Yes, your Honor.

7 THE COURT: 9:00 a.m.? Can you do that?

8 MR. MORVILLO: Absolutely, your Honor.

9 THE COURT: Is that okay for the government as well?

10 MR. BOONE: Yes, your Honor.

11 THE COURT: Mr. Boone, you mentioned -- I just want to
12 make sure it is adequately covered -- venue issues. Are we all
13 set with venue with respect to each of the eight counts? If
14 there are any unusual features, are they agreed to by the
15 defense?

16 MR. BOONE: Your Honor, in regards to Counts Seven and
17 Eight, which mention other districts, our understanding is that
18 the defendant will waive the venue as to those counts.

19 THE COURT: Is that right?

20 MR. MORVILLO: That is correct, your Honor.

21 THE COURT: That satisfies the venue requirement?
22 Because I think in Counts One through Six we clearly discussed
23 where those offenses took place.

24 MR. BOONE: I believe so, your Honor.

25 THE COURT: One other issue before we really close.

1 The bail conditions in this case are? Can somebody just
2 summarize them for me.

3 MR. BOONE: Your Honor, we have a recommendation or
4 suggestion for you based on our discussions, which is that the
5 defendant be released today on his own signature pursuant to a
6 \$100,000 personal recognizance bond to be signed by his wife
7 within a week from today.

8 We ask that he surrender his passport and make no new
9 travel applications within 48 hours of today. We ask that his
10 travel be restricted to the Southern District of New York, the
11 Eastern District of New York, the District of Columbia, and the
12 parts in between since he'll have to travel to New York on
13 occasion. And we ask that he be placed on regular pretrial
14 supervision. I believe that's all, your Honor.

15 MR. MORVILLO: That's all fine, your Honor.
16 Mr. Howe's wife is sitting in my office. We'll have the bond
17 back this afternoon.

18 With regard to travel, as I've indicated to Mr. Boone,
19 having lost his job, Mr. Howe is seeking employment, which may
20 necessitate his traveling outside of the mid-Atlantic states.
21 I think we agreed that we would advise the U.S. Attorney's
22 Office in advance before he undertakes any such travel and seek
23 their consent.

24 MR. BOONE: Yes. That's fine for us.

25 THE COURT: We have pretrial here today as well.

1 First of all, we thank you for the report. Second, it's
2 helpful that pretrial hear these terms and conditions.

3 Are they satisfactory to the government?

4 MR. BOONE: Yes, your Honor.

5 THE COURT: And to the defense?

6 MR. MORVILLO: Yes, your Honor.

7 THE COURT: So, starting with counsel for the
8 government, did you want to add anything to today's plea
9 allocution?

10 MR. BOONE: Nothing to the allocution, your Honor.

11 THE COURT: You're satisfied then with the allocution.
12 Did you want to add anything to this proceeding in any respect?

13 MR. BOONE: Just so the record is clear -- I don't
14 believe we introduced ourselves. I'm Robert Boone, assistant
15 United States attorney. With me is my colleague, Janis
16 Echenberg.

17 THE COURT: I should have said it at the beginning.
18 It's nice to have you here.

19 Mr. Morvillo, do you want to add anything to today's
20 proceeding?

21 MR. MORVILLO: No, your Honor. We thank you for your
22 time.

23 THE COURT: You're very welcome. You're also
24 satisfied with the plea allocution here today?

25 MR. MORVILLO: Yes, your Honor.

1 (Pause)

2 MR. BOONE: A couple of things, your Honor. One, very
3 briefly, obviously, given the fact that we've tried hard to
4 keep this as secure as possible, we would like to try to have
5 Mr. Howe be able to remain in the courtroom to sign the bond as
6 opposed to going down to the fifth floor, which is a custom.

7 THE COURT: Here is the problem with that. We don't
8 create the bond. We do have to have his disposition sheet
9 filled out which is a prerequisite for the bond. I don't know
10 what arrangements you can make or have made about the bond
11 itself. Those documents I think typically come from magistrate
12 court.

13 MR. BOONE: Yes. That's my understanding. I've
14 talked to them about this. They asked that I reraise it with
15 them today once the plea happens. My understanding is --
16 you're right. They will type it up down there. They may be
17 willing to then come here and have him swear to whatever they
18 have him swear to and have him sign it physically here.

19 THE COURT: Were you going to call them?

20 MR. BOONE: Yes.

21 THE COURT: So let's do this: Let's fill this out.
22 That is to say you and defense counsel and the pretrial
23 services officer. It will have the terms and conditions. Once
24 it's filled out, I'll sign it, and you'll look at it.

25 Before I sign this -- this is called District Judge

1 Bail Disposition Sheet -- could you each take a look at it and
2 see if it meets your satisfaction.

3 Is that all right with you, Mr. Boone?

4 MR. BOONE: Yes, your Honor.

5 THE COURT: And Mr. Morvillo?

6 MR. MORVILLO: Yes, your Honor.

7 THE COURT: The record will reflect that I'm signing
8 this disposition sheet.

9 Now, did you want to call down to magistrate's court
10 from here? How did you want to have that happen?

11 MR. BOONE: I'm sorry. I missed that, your Honor.

12 THE COURT: I said did you want to call magistrate's
13 court from here?

14 MR. BOONE: Your Honor, I can just walk down there
15 with the form.

16 THE COURT: Are they going to come back here with the
17 bond?

18 MR. BOONE: That's our request. Our request is that
19 they come back here with the bond so that the defendant can
20 sign it.

21 THE COURT: Do you need a copy of this disposition
22 sheet to do that?

23 MR. BOONE: Yes. I believe I need to give it to them.

24 THE COURT: I think we'll briefly adjourn but remain
25 in place, if that's what you wish. I'll come back as soon as

1 you come back.

2 MR. BOONE: Yes, your Honor.

3 THE COURT: Just so you know, it's my intention I'll
4 come back and you come back just to wrap up the proceeding. I
5 don't think I technically need to be here for issuance of the
6 bond but just to wrap up, as they say.

7 MR. BOONE: Yes, your Honor.

8 THE COURT: So you're welcome to remain in place.

9 MR. BOONE: Just one last thing before I forget,
10 your Honor.

11 THE COURT: Okay.

12 MR. BOONE: We had requested in our papers submitted
13 to the Court yesterday, September 19, that docketing be
14 delayed. I just wanted to reemphasize that.

15 THE COURT: We're granting that application. Again,
16 that's temporary. We would not docket without speaking to you
17 first. And, more likely, we will hear from you first and then
18 docket.

19 MR. BOONE: Yes, your Honor.

20 THE COURT: Thanks very much. Good to see you all. I
21 don't know how long it will take you down there. Whatever time
22 you need. Thanks a lot.

23 MR. MORVILLO: Thank you, your Honor.

24 MR. BOONE: Thank you, your Honor.

25 (Adjourned)